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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
8

9 UNITED STATES OF AMERICA,

CASE NO. CR F 03-5410 LJO

10 Plaintiff,

**ORDER ON DEFENDANT'S SECOND
SPEEDY TRIAL MOTION**

11 vs.

12 VICTOR VEVEA,

13 Defendant.
14 _____/

15 After the trial confirmation hearing, the Court re-reviewed the record to make certain that it had
16 ruled on all pending motions. Because the Court could not find that it had ruled on the Defendant's
17 Second Pretrial Motion to Dismiss For Speedy Trial Violations that had been filed on November 16,
18 2007, it asked its Clerk to invite a response to that motion from the Government. The Court has now
19 had a chance to review the just-received response from the Government to that one outstanding motion
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21 In reviewing the file, the defendant's first such motion was ruled upon from the Bench on April
22 16, 2007. At that time, 27 of the 70 days had run, but the time to bring the matter to trial had not been
23 extinguished. In sum, 43 days remained.

24 On June 20, 2007, the Government made it known that it would proceed with only one charge:
25 a petty offense.

26 Since the Speedy Trial Act (18 U.S.C. section 3172) does not apply to petty offenses, the issue
27 now, therefore, is whether or not the 43 available days were extinguished between April 16, 2007 and
28 June 20, 2007. They were not.

1 The time from when motions are filed to the time the motions are heard is excluded from the
2 calculation. From the time of the Order given from the Bench on April 16, 2007 to the time motions
3 were filed on May 17, 2007, 31 days are properly added to the 27 that had already run, for a total of 58
4 of the 70 days. The additional 12 days were never spent in light of the decision and notice of June 20,
5 2007 by the Government to proceed on the petty offense charge.

6 The Motion to Dismiss is therefore and hereby DENIED.

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10 IT IS SO ORDERED.

11 **Dated: January 9, 2008**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE